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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,528	01/29/2002	Stephen T. Pounds	P3001-2POUNDS	2127

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EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

937528

Applicant(s)

Pounds

Examiner

Silbermann

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12-30-03.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-50 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-50 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-17 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen.
3. Carlsen teaches a framing system including base structure 8 and clamping members A for retaining sheet 7 (Figure 3). According to Figure 1, it appears that backing 8 and retaining member A are formed from four separate pieces, but this is not discussed in the specification. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the frame parts from four separate pieces since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.
4. The clamping structure A engages the frame by means of pegs and holes (Figure 3). The ends of the frame members are angled (Figure 1). The holes are placed in a flat front surface of the frame and the pegs extend from a flat front surface of the clamping structure. Edge 9 of the frame forms a shoulder.
5. Claims 1-11, 18-23 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen in view of Diloia.

6. Carlsen, as described above, does not teach an open frame having members that can be disconnected, however, this is well known in the art. Diloia teaches frame members connected by a morise and tenon joint (Figure 1). It would have been obvious to a person having ordinary skill in the art to utilize such a joint in the frame of Carlsen so as to provide a secure means for attaching the frame members together.

7. Additionally, the recitation that the frame can be disassembled relates entirely to the intended use of the frame. Such language does not provide any structural limitations.

8. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen in view of Ostergaard et al.

9. Carlsen does not teach another layer having holes therein for receiving pegs, however, this is well known in the art as shown by Ostergaard. Ostergaard teaches a framing system including additional layer 5 including holes 4 in the periphery for securing the layer. It would have been obvious to one of ordinary skill in the art to utilize such holes in the device of Carlsen to hold the layer in the proper position.

10. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen and Diloia as applied to claim 10 above, and further in view of Ostergaard.

11. It would have been obvious to one of ordinary skill in the art to utilize holes in the device of Carlsen (as modified by Diloia) for the same reasons as discussed above.

12. Claims 29, 30, 33-35, 42-44 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen in view of Thomas.

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13. Carlsen, as discussed above, does not teach a canister for retaining the frame assembly, however, such kits are well known in the art, as shown by Thomas. Thomas teaches a sign kit retained in a canister prior to use. It would have been obvious to one of ordinary skill in the art to utilize such a canister to provide a protective casing for the assembly prior to use and during transport. As shown in Thomas, all the members used in forming the display are contained within the canister.

14. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen in view of Thomas, as applied to claim 29 above and further in view of Hastings.

15. Carlsen and Thomas do not teach the canister as having separate compartments, however, this is well known. Hastings teaches a kit having separate compartments (Figure 2). It would have been obvious to one of ordinary skill to utilize a kit with more than one compartment so as to keep the pieces of the kit separate until use.

16. Claims 36-41, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen and Thomas as applied to claim 35 above, and further in view of Diloia.

17. Carlsen and Thomas (as discussed above) do not teach a mortise and tenon joint. This is well known however, as discussed previously. It would have been obvious to one of ordinary skill to utilize a mortise and tenon joint, as in Diloia, in the frame assembly of Carlsen and Thomas for the same reasons as discussed above.

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18. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsen and Thomas as applied to claim 43 above, and further in view of Ostergaard.

19. Carlsen and Thomas do not teach an additional layer, however, this would have been obvious to one having ordinary skill in the art in view of Ostergaard, for the same reasons as discussed above.

Response to Arguments

20. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

21. Applicant argues that Carlsen and Diloia do not teach a frame as described in claim 1. Applicant's arguments are directed toward the intended use of the frame pieces. The Figures of Carlsen appear to be misleading, however, Diloia clearly teaches four frame members that are attached at angled ends. Carlsen appears to show frame members and clamping members that are joined at the corners in Figure 1.

22. Applicant also argues that the references do not provide any motivation for making the combination, however, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971).

23. Regarding Ostergaard, Applicant states that this reference is non-analogous. However, this reference shows a display and a protective cover. This is what is shown in Carlsen as well. Applicant also argues that Thomas is non-analogous, however,

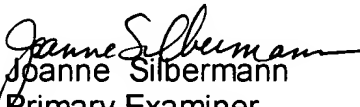
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Thomas also shows a display. The elements of the display are removed from the canister and assembled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joanne Silbermann
Primary Examiner
Art Unit 3611

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